

HOUSE BILL No. 1820

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-9-4-16; IC 3-9-8.

Synopsis: Registry for legislative candidate surveys. Requires an organization that distributes surveys or questionnaires to candidates for legislative office to register with the election division. Requires the organization to file with the election division: (1) a copy of each survey or questionnaire distributed; (2) the organization's position on each question; and (3) the candidate's response. Specifies information that the organization must provide to the candidate along with the survey or questionnaire. Provides for civil penalties.

Effective: July 1, 2005.

Budak, Becker, Pelath

January 25, 2005, read first time and referred to Committee on Elections and Apportionment.

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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1820

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 3-9-4-16 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) In addition to any other
3 penalty imposed, a person who does any of the following is subject to
4 a civil penalty under this section:

5 (1) Fails to file with the election division a report in the manner
6 required under IC 3-9-5.

7 (2) Fails to file a statement of organization required under
8 IC 3-9-1.

9 (3) Is a committee or a member of a committee who disburses or
10 expends money or other property for any political purpose before
11 the money or other property has passed through the hands of the
12 treasurer of the committee.

13 (4) Makes a contribution other than to a committee subject to this
14 article or to a person authorized by law or a committee to receive
15 contributions on the committee's behalf.

16 (5) Is a corporation or labor organization that exceeds any of the
17 limitations on contributions prescribed by IC 3-9-2-4.



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- (6) Makes a contribution in the name of another person.
- (7) Accepts a contribution made by one (1) person in the name of another person.
- (8) Is not the treasurer of a committee subject to this article, and pays any expenses of an election or a caucus except as authorized by this article.
- (9) Commingles the funds of a committee with the personal funds of an officer, a member, or an associate of the committee.
- (10) Wrongfully uses campaign contributions in violation of IC 3-9-3-4.
- (11) Violates IC 3-9-2-12.
- (12) Fails to designate a contribution as required by IC 3-9-2-5(c).
- (13) Violates IC 3-9-3-5.
- (14) Serves as a treasurer of a committee in violation of any of the following:
- (A) IC 3-9-1-13(1).
 - (B) IC 3-9-1-13(2).
 - (C) IC 3-9-1-18.
- (15) Fails to:**
- (A) register as required under IC 3-9-8; or**
 - (B) file any document or information required under IC 3-9-8;**
- before distributing a survey or a questionnaire to a candidate for legislative office.**
- (b) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for filing a defective report or statement. If the commission determines that a person failed to file the amended report or statement of organization not later than noon five (5) days after being given notice under section 14 of this chapter, the commission may assess a civil penalty. The penalty is ten dollars (\$10) for each day the report is late after the expiration of the five (5) day period, not to exceed one hundred dollars (\$100) plus any investigative costs incurred and documented by the election division. The civil penalty limit under this subsection applies to each report separately.
- (c) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for a delinquent report or statement. If the commission determines that a person failed to file the report or statement of organization by the deadline prescribed under this article, the commission shall assess a civil penalty. The penalty is fifty dollars (\$50) for each day the report or statement is late, with the afternoon of the final date for filing the report or statement being calculated as the first day. The civil penalty under this subsection may

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not exceed one thousand dollars (\$1,000) plus any investigative costs incurred and documented by the election division. The civil penalty limit under this subsection applies to each report separately.

(d) This subsection applies to a person who is subject to a civil penalty under subsection (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), or (a)(10). If the commission determines that a person is subject to a civil penalty under subsection (a), the commission may assess a civil penalty of not more than one thousand dollars (\$1,000), plus any investigative costs incurred and documented by the election division.

(e) This subsection applies to a person who is subject to a civil penalty under subsection (a)(5). If the commission determines that a person is subject to a civil penalty under subsection (a)(5), the commission may assess a civil penalty of not more than three (3) times the amount of the contribution in excess of the limit prescribed by IC 3-9-2-4, plus any investigative costs incurred and documented by the election division.

(f) This subsection applies to a person who is subject to a civil penalty under subsection (a)(11). If the commission determines that a candidate or the candidate's committee has violated IC 3-9-2-12, the commission shall assess a civil penalty equal to the greater of the following, plus any investigative costs incurred and documented by the election division:

- (1) Two (2) times the amount of any contributions received.
- (2) One thousand dollars (\$1,000).

(g) This subsection applies to a person who is subject to a civil penalty under subsection (a)(12). If the commission determines that a corporation or a labor organization has failed to designate a contribution in violation of IC 3-9-2-5(c), the commission shall assess a civil penalty equal to the greater of the following, plus any investigative costs incurred and documented by the election division:

- (1) Two (2) times the amount of the contributions undesignated.
- (2) One thousand dollars (\$1,000).

(h) This subsection applies to a person who is subject to a civil penalty under subsection (a)(13). If the commission determines, by unanimous vote of the entire membership of the commission, that a person has violated IC 3-9-3-5, the commission may assess a civil penalty of not more than five hundred dollars (\$500), plus any investigative costs incurred and documented by the election division.

(i) This subsection applies to a person who is subject to a civil penalty under subsection (a)(14). If the commission determines, by unanimous vote of the entire membership of the commission, that a person has served as the treasurer of a committee in violation of any of

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the statutes listed in subsection (a)(14), the commission may assess a civil penalty of not more than five hundred dollars (\$500), plus any investigative costs incurred and documented by the election division.

(j) The following applies to a person who is subject to a civil penalty under subsection (a)(15):

(1) If the commission determines that the person failed to register with the election division as required by IC 3-9-8, the commission may assess a civil penalty of not more than one thousand dollars (\$1,000), plus any investigative costs incurred and documented by the election division.

(2) If the commission determines that the person failed to file with the election division any document or information required by IC 3-9-8, the commission shall assess a civil penalty. The penalty is fifty dollars (\$50) for each day the information is late, with the afternoon of the final day for filing the information being calculated as the first day. The civil penalty assessed under this subdivision may not exceed one thousand dollars (\$1,000), plus any investigative costs incurred and documented by the election division. The civil penalty limit set forth in this subdivision applies to each instance in which information is required to be filed.

(j) (k) All civil penalties collected under this section shall be deposited with the treasurer of state in the campaign finance enforcement account.

(k) (l) Proceedings of the commission under this section are subject to IC 4-21.5.

SECTION 2. IC 3-9-8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 8. Registry for Legislative Candidate Surveys and Questionnaires

Sec. 1. This chapter applies to campaigns for election to legislative offices.

Sec. 2. As used in this chapter, "survey organization" means an organization:

- (1) whose members or employees prepare and distribute; or**
- (2) that contracts with another person to prepare and distribute on its behalf;**

a survey or a questionnaire to at least one (1) candidate for a legislative office.

Sec. 3. As used in this chapter, "registered survey organization" means a survey organization that registers with the election

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1 division as required under section 5 of this chapter.

2 Sec. 4. (a) For purposes of this chapter, a survey organization
3 conducts business in Indiana if it:

4 (1) prepares and distributes; or

5 (2) contracts with another person to prepare and distribute on
6 its behalf;

7 a survey or questionnaire to at least one (1) candidate for
8 legislative office in Indiana.

9 (b) A nonresident of Indiana that conducts business in Indiana
10 under subsection (a) is considered to have appointed the election
11 division as the nonresident's agent for service of process in any
12 action or proceeding against the nonresident arising from the
13 preparation and distribution of a survey or questionnaire to at
14 least one (1) candidate for legislative office in Indiana.

15 Sec. 5. (a) After January 1 of each year in which an election is
16 conducted with at least one (1) legislative office on the ballot, a
17 survey organization must register with the election division before
18 distributing a survey or a questionnaire to a candidate for
19 legislative office.

20 (b) The commission shall prescribe the form for a survey
21 organization to register with the election division. The form must
22 provide for a registering survey organization to declare at least the
23 following:

24 (1) The full name, mailing address, and telephone number of
25 the survey organization.

26 (2) The Internet web site address, if any, of the survey
27 organization.

28 (3) A statement of the survey organization's goals and
29 purposes.

30 (4) The names and addresses of the survey organization's
31 principal officers.

32 (5) Whether the survey organization has received an
33 exemption from federal income taxation from the Internal
34 Revenue Service and, if so, the details concerning the
35 exemption.

36 (6) The name and address of any other organization or
37 political action committee with which the survey organization
38 is affiliated.

39 (7) The number of Indiana residents who are members of the
40 survey organization.

41 (8) Any other information specified by the election division.

42 Sec. 6. A survey organization that registers with the election

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1 division is entitled to obtain from the election division a list of the
 2 names, addresses, and telephone numbers of the individuals who
 3 are candidates for legislative office.

4 Sec. 7. (a) Not later than the date of distribution of each survey
 5 or questionnaire that is sent to at least one (1) candidate, a survey
 6 organization shall file with the election division:

- 7 (1) a copy of the survey or questionnaire; and
- 8 (2) a statement or description of the survey organization's
 9 position on each question included in the survey or
 10 questionnaire.

11 (b) Not later than ten (10) days after the date of receipt of a
 12 candidate's response to a survey or questionnaire, a survey
 13 organization shall file the candidate's response with the election
 14 division.

15 Sec. 8. A survey organization must include with each
 16 questionnaire or survey sent to a candidate, and file with the
 17 election division, a statement setting forth the following:

- 18 (1) Whether the survey organization is a registered survey
 19 organization.
- 20 (2) The number of:
 21 (A) members of the survey organization; and
 22 (B) voters in the candidate's election district;
 23 to whom the survey organization will distribute the responses
 24 or a summary of the responses to the survey or questionnaire.
- 25 (3) All planned uses of the responses to the survey or
 26 questionnaire, including whether the responses will be used in
 27 radio or newspaper advertising.
- 28 (4) A description as to how the survey organization will report
 29 a candidate's failure to respond to the survey or
 30 questionnaire.
- 31 (5) Whether the same survey or questionnaire is being sent to
 32 the other candidates for the same legislative office in the same
 33 election district as the candidate.
- 34 (6) Whether the survey organization expects to endorse a
 35 candidate in the candidate's election district.

36 Sec. 9. A candidate for legislative office who receives a survey
 37 or questionnaire from a survey organization that:

- 38 (1) did not register as required under section 5 of this chapter;
 39 or
- 40 (2) did not file the information required under section 7 of this
 41 chapter;

42 may request that the election division investigate the suspected

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1 violation under IC 3-9-4.

2 Sec. 10. (a) All records filed with the election division under this
3 chapter are available for copying and inspection under IC 5-14-3.

4 (b) The election division shall post on the election division's
5 Internet web site a list of the survey organizations that register
6 under this chapter.

7 SECTION 3. [EFFECTIVE JULY 1, 2005] (a) IC 3-9-4-16, as
8 amended by this act, and IC 3-9-8, as added by this act, apply to
9 the distribution of surveys or questionnaires to candidates for
10 legislative office in elections conducted after December 31, 2005.

11 (b) This SECTION expires January 1, 2006.

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